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THE POSTAL TELEGRAPH CABLE COMPANY.

FEBRUARY 24, 1904.—Ordered to be printed.

Mr. WARREN, from the Committee on Claims, submitted the following

REPORT.

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[To accompany S. 1362.]

The Committee on Claims, to whom was referred the bill (S. 1362) for the relief of the Postal Telegraph Cable Company, have carefully considered the same and now report it back to the Senate, recommending its passage without amendment.

A similar claim of the Western Union Telegraph Company, arising from the same cause—namely, an order of Postmaster-General Wanamaker, dated June 29, 1889, in which the rate for the fiscal year beginning July 1, 1889, was fixed at 1 mill a word, irrespective of distance, for all Government messages, day or night, which order was deemed by that company to be neither fair nor reasonable, it being found impossible to perform the service at such rate except at great loss—was decided by the Court of Claims on November 22, 1897, in favor of the claimant.

As set forth in the preamble of the bill S. 1362, pending the decision of the Court of Claims in the Western Union case, sufficient time elapsed to place this claim beyond the jurisdiction of that court.

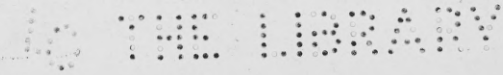
In view of the fact that the Postmaster-General has reported favorably as to the merits of the claim, your committee are of the opinion that the bar of the statute of limitations should be removed and the claim paid.

The report of the Postmaster-General is as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 30, 1904.

SIR: In compliance with your request for all papers, or copies of same, on file in this Department relating to S. 1362, for the relief of the Postal Telegraph Cable Company, and requesting my opinion as to its merits, I have the honor to inform you that the most careful search has been made in the files of this Department, and copies of such papers as are found on the subject are transmitted herewith.

The bulk of the correspondence on this subject is found in the report of the Postmaster-General for the year 1889, marked "Exhibit C," pages 67 to 89, inclusive. A copy of the report is forwarded herewith. Apparently there are a few letters missing, but it is believed the papers sent are sufficient to show, in a general way,



the history of the transaction. I am informed by the Washington manager of the Postal Telegraph-Cable Company that they have one or two letters in their possession of which no record has been found in this Department.

I am of the opinion that the Postal Telegraph Cable Company is justly entitled to compensation for any and all services rendered this Department covered by the period for which payment was withheld, at the rate in force since that time. I reach this conclusion in view of the fact that the Court of Claims passed upon the claim of the Western Union Telegraph Company, which, as I understand, was identical with the one in question, and rendered a verdict in favor of the plaintiffs at the rate above indicated.

Very respectfully,

H. C. PAYNE,
Postmaster-General.

HON. FRANCIS E. WARREN,
Chairman Committee on Claims, United States Senate.

The correspondence referred to in the above letter (being extracts from the report of the Postmaster-General for the year 1889, together with subsequent letters not included in that report) is as follows:

EXHIBIT C.

Correspondence in regard to Government telegraph rates.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., June 29, 1889.

GENTLEMEN: I beg to inform you that in view of the large amount of official telegraph business given to your company by the Executive and other Departments of the Government, I desire, in the exercise of my duty under the law of fixing rates for the ensuing fiscal year, to establish reduced rates for that year; and accordingly I have to notify you that the uniform rate for the fiscal year beginning July 1, 1889, and ending June 30, 1890, will be one mill a word, irrespective of distance, for all messages, day or night.

Very respectfully,

JNO. WANAMAKER,
Postmaster-General.

The WESTERN UNION TELEGRAPH COMPANY OF NEW YORK.

NOTE.—Similar letters were sent on the same day to all telegraph companies that have accepted the provisions of the act of 1866.

EXECUTIVE OFFICE,
WESTERN UNION TELEGRAPH COMPANY,
New York, July 2, 1889.

DEAR SIR: Your circular letter of June 29 ultimo, addressed to the Western Union Telegraph Company, and to several other telegraph companies, of which I am president, has been duly received.

The rate you propose for Government telegraph service during the ensuing fiscal year, one mill per word by day or night without respect to distance, is so very far below the actual cost of the service that I respectfully ask that you will suspend its official declaration and afford the telegraph companies an opportunity of demonstrating by facts and figures its great injustice.

Under the rates in force for several years past it is doubtful whether we have not been doing the Government telegraph service at a loss, certainly we have with little or no profit.

The average cost to this company for transmitting and delivering messages has been steadily reduced from 63.4 cents per message in 1867 to 23.4 cents in 1886, to 23 cents in 1887, and to 23.2 cents in 1888. These figures represent the lowest average cost per message that we have ever been able to reach with all the economies of time and labor we could apply to the service; and the correctness and justice of these figures were established by abundant testimony before the Senate Committee on Post-Offices and Post-Roads in the spring of 1888.

The Government rates of the past year, with the minimum of 20 cents, have possibly paid an average of 23.2 cents, which is the average cost to this company. But the Government service is exacting, entitled to preference under the law, and requiring the promptest transmission and delivery.

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The Post-Office Department has for many years taken great pains to ascertain the cost to railroad companies of carrying the mails on fast trains, and has with great care adjusted the rate per mile on the several classes of mail transportation so as to pay the railroad companies a fair compensation for the service rendered. I can not believe that your administration of the Department would intentionally make an exception to this basis of equity and fair dealing in its requirements of telegraph companies. Indeed, it is worth consideration whether such action would not be beyond the warrant of the Constitution and amount to an appropriation of private property for public use without due compensation therefor.

Your proposed order would compel this company to transmit a message of twenty words from Washington to Portland, Oregon, and deliver the same for 2 cents, which is the cost of delivery alone in that city. That service would involve five relay transmissions, with a competent operator at each repeating station, requiring no less than seven operators to handle it; also clerks to receive, check, and book it; besides its due proportion of the cost of maintaining the lines, supplying batteries, stationery, etc. The total cost of the service to this company for such message would not be less than 46 cents, or twice the average cost of all our messages.

Trusting I shall be awarded an opportunity of a hearing in person, and craving indulgence for the length of this letter,

I have the honor to remain, very respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER, *Postmaster-General.*

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY,
195 Broadway, New York, July 3, 1889.

DEAR SIR: I beg leave to acknowledge the receipt of your letter of June 29, notifying us that the rate on official telegraph business for the fiscal year beginning July 1, 1889, has been fixed at one mill a word.

This company respectfully protests against the establishment of a rate so far below the cost of the service, and earnestly hopes that the matter will be reconsidered and adjusted on a more equitable basis.

Very respectfully,

JNO. VAN HORNE,
President.

HON. JOHN WANAMAKER,
Postmaster-General, Washington, D. C.

POSTAL TELEGRAPH CABLE COMPANY,
WASHINGTON BUILDING, No. 1 BROADWAY,
New York, July 3, 1889.

DEAR SIR: The minimum rate for transmission of Government messages as fixed by your predecessor for the past year was, as you are no doubt aware, practically 1 cent per word for day service and three-quarters of a cent for night service, exclusive of date and place from, which were transmitted free. To this a slight addition was made in case of messages transmitted more than two thousand miles.

The reduction demanded by your circular letter of June 29, 1889, just received, amounts, therefore, to about 90 per cent upon a rate which can hardly be said to have paid the actual cost of performing the service.

This company respectfully protests against the terms of your notice above referred to and believe that you can not be familiar with the methods of telegraphic transmission, and the labor and cost involved in it. We assure you that the rate named by you, which is barely equivalent to three cents, on an average, for the handling of telegrams, regardless of distance, will not pay the cost of accounting alone, by the forms required by the Government. The average cost to us of delivery alone is over 3 cents per message.

While it is true that this company has accepted the provisions of the law of Congress which confers upon the Postmaster-General the right to fix rates for the transmission of telegrams for the Government, it seems to us incredible that it can be the wish of the Government, when the facts are understood, to compel the performance of service not only without compensation, but at actual and serious loss. Surely such a condition was not contemplated by this company when its assent to the law was given, and we respectfully and earnestly request that if the statements herein made

fail to satisfy you of the fairness of our position in this matter, we be accorded such hearing, in person or otherwise, as you may prefer, as shall place the facts fully before you and secure justice done.

Very respectfully,

A. B. CHANDLER,
President.

HON. JOHN WANAMAKER,
Postmaster-General, Washington, D. C.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., July 3, 1889.

SIR: I have to acknowledge the receipt of your letter of the 2d instant, and to inform you in reply that, in compliance with your request, the official promulgation to the other Departments of the Government of the order fixing telegraph rates for the ensuing fiscal year will be suspended a reasonable time to afford your company, and any others desiring it, an opportunity to be heard.

Very respectfully,

JNO. WANAMAKER, *Postmaster-General.*

HON. NORVIN GREEN,
President Western Union Telegraph Company, New York, N. Y.

NOTE.—Similar replies were sent July 5 and 6 to the Postal Telegraph and Cable Company and to the Southern Bell Telephone and Telegraph Company, respectively

POSTAL TELEGRAPH CABLE COMPANY,
WASHINGTON BUILDING, No. 1 BROADWAY,
New York, July 10, 1889.

DEAR SIR: I think the main facts which are entitled to consideration in fixing rates on the telegraph business of the Government are contained in my letter to you of July 3. I will, however, endeavor to state our view of the subject, in reply to your letter of July 5, somewhat more completely and as briefly as practicable.

The rate indicated in your letter of June 29 would amount to less than 3 cents per message, on an average, as compensation to the telegraph company for the transmission and delivery of Government business.

It has been clearly ascertained that the average cost of handling all classes of messages is over 20 cents each. The cost of handling Government messages is somewhat more than that of other business, for the reason that they are entitled to precedence, they are largely in cipher, requiring especial care and skill, and are usually longer than ordinary commercial and domestic messages.

As you may not be aware of the extent of service required in the transmission of messages by telegraph, allow me to explain the course of a message filed in our main office in Washington and destined to Kansas City. It has first to be carefully counted and "checked" by a receiving clerk. "Checked" means a notation of the time received, by whom received, the number of words, and whether "paid" or "collect," in the proper places for such notation upon the blank form on which the message is written. It is then sent to an operating desk and transmitted, letter by letter, character by character, ordinarily direct to Chicago, where it is received by an operator who is required not only to write it out in full, but to carefully count and compare the number of words and recheck the message. It is then sent to another desk, and the same process is repeated by another operator at Chicago, sending direct to an operator in Kansas City, who repeats the process of the receiving operator at Chicago.

In this, the ordinary process of transmission under favorable conditions of weather, at least two automatic mechanical repeaters, each requiring careful and constant watching by a skilled operator, are employed, one at Pittsburgh, Pa., and another at St. Louis, Mo. In unfavorable conditions of weather such as often prevail, instead of being repeated automatically, the whole process of manual receiving and sending by separate operators is necessary, and not unfrequently this has to be done at more than two points. When the message has been received at destination, an impression copy of it is taken for reference and record, the original as received is enveloped, addressed, entered upon a delivery sheet, and again upon a receipt blank, and sent by messenger to its address. The office at Washington and the office at Kansas City keep a book account of the message, and each makes a "check report" for the information of the auditor of the company. The office at which the message is payable

makes a bill in duplicate or triplicate in case of Government messages, and of course observes the forms required by the Government in accounting and collecting therefor.

The example above stated is by no means an unusual one. Nearly all messages passing between points equally remote from each other as Washington and Kansas City require to go through at least as many different hands as in this case. In many cases, messages between points much nearer to each other than Kansas City and Washington require as much labor, and in bad weather the labor is materially increased, and the speed of transmission, and consequently the amount of business capable of being transmitted, greatly reduced upon all long circuits.

I have already stated that, in accepting the law of Congress under which the Postmaster-General is authorized to fix rates for Government telegraph business, it was not contemplated by this company that, under any circumstances, the Government would seek to have such service performed at less than its actual cost to the company. I will now add that I do not believe the law itself contemplates that such loss should be inflicted upon the telegraph companies, and my opinion in this regard is supported by legal counsel.

The effect of compliance with your letter would be to impose a tax upon us of not less than \$90 upon every \$10 paid to us by the Government for its telegraph service.

It is proper to further state that, as a matter of fact, this company has never, so far as I know or believe, derived the slightest benefit from its acceptance of the "law of 1866." We have occupied no portion of the public domain, nor have we occupied any military or post road by virtue of that law. We have used no stone, timber, nor other materials taken from public lands, nor any public lands for our stations. How then can the Government seek to enforce such an act of injustice and oppression as the observance of your order would inflict?

It seems to me that I need only add that if the terms stated in your letter of June 29th are to be enforced, or, indeed, if any reduction below the rate on Government business which has prevailed during the past year is to be demanded of this company, we shall hope to be spared the necessity of handling any part of it.

Very respectfully, yours,

A. B. CHANDLER, *President.*

HON. JOHN WANAMAKER,
Postmaster-General, Washington, D. C.

EXECUTIVE OFFICE,
WESTERN UNION TELEGRAPH COMPANY,
New York, July 11, 1889.

DEAR SIR: I was informally advised that it would suit your convenience to hear me on Friday, the 12th inst., and I had been engaged several days examining data and preparing what I wanted to say. But I was attacked yesterday with an illness, from which I have suffered a good deal in the past six weeks, which renders me physically unable to go to Washington at this time. I have been obliged, therefore, to put my further argument in the form of a letter, that you may not be delayed in considering the subject to which it relates.

The paper is necessarily a long one, but I think it will repay you to give it a careful perusal, and trust you will do so, in view of the large interests involved.

Very respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER, *Postmaster-General.*

EXECUTIVE OFFICE,
WESTERN UNION TELEGRAPH COMPANY,
New York, July 11, 1889.

DEAR SIR: Title 65, Revised Statutes, embracing the acts of July 24, 1866, and of June 10, 1872, was the outgrowth of the first efforts to induce Congress to establish a Government telegraph.

A scheme was pressed before a committee of Congress to incorporate a new telegraph company by the General Government, with which the Government should contract to transmit telegrams at a price to be agreed upon, the Government receiving and delivering the messages and being the only party known to the patrons of the telegraph. This scheme was justified on the ground that the Government had no right to take existing telegraph properties except at prices and on terms acceptable to the companies that owned them; and the scheme was objected to by the telegraph

companies then existing on the ground that the Government, entering upon the telegraph business at rates that would not pay expenses, would simply destroy existing telegraph properties. It resulted in a compromise between the telegraph companies and the committee of Congress, of which, I believe, the lamented Garfield was chairman, giving to the telegraph companies certain franchises and privileges, and to the Government certain advantages and privileges, including priority of service at rates to be annually fixed by the Postmaster-General, and, what was deemed at the time of most importance to the Government, the right to take existing telegraph properties of the companies who accepted the provisions of the act at an appraised value to be ascertained by arbitrators, as described in section 5267.

This compromise agreement was enacted into law, subject to formal acceptance by the telegraph companies; and their acceptance filed with the Government rendered it to all intents and purposes a compact between the Government and the telegraph companies, the operation of which was intended to be that the Government should have the right to take all telegraph properties, and that if it should elect to establish a Government telegraph it should take existing telegraph properties on terms to be ascertained as the law directs.

This section, 5267, Revised Statutes of 1878, annotated as being enacted June 10, 1872, giving the Government the right to take telegraph properties, is, in substance, the same language as the proviso at the close of section 3 of the original act of July 24, 1866, and therefore a part of the compact accepted by the Western Union Telegraph Company in June of 1867.

THE FIXING OF RATES BY THE POSTMASTER-GENERAL.

This does not appear to have been considered an imperative duty on the Postmaster-General, for no action seems to have been taken by that officer in the direction of fixing rates until July 1 of 1871, when the necessity for it was alleged to have arisen by reason of the complicated character of the service in transmitting the signal weather reports.

A conference with the telegraph companies was invited by Postmaster-General Creswell through Captain Howgate, the acting head of the Signal Service, and a discussion of the subject was had in Washington, President William Orton representing the Western Union Telegraph Company and the Postmaster-General having the assistance of Assistant Attorney-General Whiting and the head of the Signal Bureau, and the rates were fixed satisfactorily to the telegraph companies. They were not annually revised until some years later, and in almost every instance the telegraph companies were consulted as to what they could afford to do the service for. In two instances Postmaster-General Jewell and Postmaster-General James, at the instance of the telegraph companies, recalled and modified their orders after they had been officially proclaimed.

The language of the act—that messages between the several Departments of the Government “*shall have priority over all other business* at such rates as the Postmaster-General shall annually fix”—may be construed as contemplating the fixing of a higher rate than is paid by other patrons because of such priority in transmission over all other business. Certainly it never contemplated conferring the power to fix the rates below the actual cost of the service. Such action is nothing short of confiscation and expropriation of the property and service of employes to the use of the Government without due compensation therefor.

THE RATE AS LAST FIXED.

Twenty cents for twenty words or less for distances of 1,000 miles or less, and 1 cent for each additional word, and one-tenth of a cent per word for each additional 100 miles or fraction thereof, is for distances of about 1,000 miles (as between Washington or New York and St. Louis or Chicago) just one-half the rate paid by the public on current messages. For distances of 300 miles and under it is about three-fourths the commercial rate. Our gross receipts for the last fiscal year, as shown by the annual report, were \$19,711,164.12, and the current working expenses were \$14,640,592.18, leaving the profits \$5,070,571.94, out of which \$530,258.30 was paid for interest and sinking fund on bonded debt, which is part of our capitalization.

It will be readily seen that the working expenses, without any return for any part of the capital employed, costs within a fraction of 75 per cent of the total earnings. If, therefore, the Government rate is less than 75 per cent of the rate to the public (as it undoubtedly is), then the Government business is now being done at a loss. The table on page 9 of the annual report shows the average cost to the company of handling messages to be 23.2 cents per message. If the Government business does not pay something more than this average, then it must be done at a loss, for the

messages, in order to yield such an average, must be considerably above the average length of business messages (about seventeen words), and it is a very exacting service, having precedence over all other business, and requiring prompt and often long-distance messenger deliveries, or rewriting in some cases to deliver by special wires.

These exhibits demonstrate that the rate as fixed for the past year is a great injustice to the telegraph companies, and not on a fair business basis of living profits awarded to railroad companies and other corporations for services rendered. The rates ought therefore to be increased rather than diminished.

By the present rate the Government is saving a large sum, probably \$100,000 annually, by the reduced cost of its telegraph service below what other patrons have to pay, and that saving is necessarily made up off other customers. In all justice and fair dealing the existing rate should therefore be increased. To do the Government service for nothing necessarily imposes heavier burdens on the people who sustain the telegraph. If the railroads had to haul the mails for nothing they would have to collect more for other service to sustain the expense of operation and pay a moderate return for capital employed. The Government is as able to pay, and every business consideration demands that it shall pay, a fair and reasonable consideration for whatever service it may require.

RATES NAMED FOR THE ENSUING YEAR.

As to the rate named for the ensuing fiscal year in your official circular to the telegraph companies of June 29 ultimo, which you say "will be one mill a word irrespective of distance for all messages day or night," I have only to say that it would not reimburse what this company has to pay for the clerical service in receiving, counting, checking, routing, numbering, and booking the message before its transmission; that it would not reimburse what this company has to pay for the time of any one of from 7 to 11 operators that would be engaged in the transmission of a message from Washington to Portland, Oregon; that a message of the ordinary length would not reimburse what we have to pay for its delivery by messenger after it has reached its destination, to say nothing of any part of the cost of maintaining the lines, battery supplies, stationery, superintending, offices, and other incidental expenses; and, finally, it would not reimburse the cost to this company of gathering up business, making up the accounts, and making the collections.

A message handed in at Washington is received, counted, and checked by the clerk at the window. It is then sent to the operating room, where the circuit manager routes and numbers it and sends it to the proper instrument. After its transmission it goes to the bookkeeper to be entered. What we have to pay for the time of these several employes is certainly more than 1 cent, the value of a ten-word message, and probably more than 2 cents, which would be the price of a twenty-word message at the rate named.

We pay our operators, of the class that handle Government messages, an average of \$70 per month, or about \$2.70 per day for the twenty-six working days of the month. It is a very fair day's work to handle 180 messages, and they rarely average that per operator in our larger offices; so that each operator handling messages costs us a full one cent and half per message. We employ a large number of operators in Washington and elsewhere by the hour, paying forty cents per hour. They rarely handle thirty messages per hour, the average being about twenty-six, which yields about the same result in the case of handling the messages.

In further examination of the practical operation of transmitting messages from New York or Washington to points on the Pacific coast, I find they are not sent through repeaters all the way in one compound circuit. All west-bound business is relayed at Chicago or St. Louis, so that a message is first sent from Washington to Chicago through one repeating station, requiring three operators. From Chicago to San Francisco it is transmitted in one compound circuit through four intermediate repeating stations, employing six operators, which, added to the three first named, make nine. Then, if it has to go to Oregon, passing through repeaters at one intermediate station, it would require three more operators.

This company transmitted during the last fiscal year 51,463,955 messages. The cost for messenger service was, in round numbers, \$1,120,000, making the average cost of delivery per message about $2\frac{1}{2}$ cents, although a large number of messages to the floor of exchanges, to newspapers, and by special-wire deliveries did not require the use of a messenger. In fact, in most large cities, as in Washington City, we pay by contract with district messenger companies $2\frac{1}{2}$ cents per message for making deliveries. You may answer that the Government sends letters 1,000 miles and delivers them for 2 cents; but the Government, nor any other patron of the telegraph, would not submit to the class of deliveries made by the letter carriers. In fact, the Govern-

ment itself, in this city, charges 10 cents per letter for special deliveries; and every telegraph message requires a special delivery. Over more than half the area of this city we pay 5 cents per message for delivery.

In respect to the cost of gathering up the business and making up the accounts for collection, at many of our small stations they have but one Government message during a month. The War Department requires that the messages themselves be rendered as vouchers. If an agent or employé of any of the Departments is detained at a small station by railroad interruption, and sends a message of ten words, the manager of that station finds it his duty to inclose that message by mail to the auditor of the company here for collection. That would cost this company a 2-cent postage stamp. Then we shall have sent the message, paid $1\frac{1}{2}$ cents to each operator engaged on it, $2\frac{1}{2}$ cents for delivering it and 2 cents to the Government to forward the original message as voucher, and when the account is made up we get 1 cent back.

We have been always ready to serve the Government in the promptest and best manner in our line of business, and have done a great deal for the Government without charge, giving it the use of wires on special occasions and opening new stations at considerable expense for signal and astronomical observations. We have had our accounts tied up for a considerable portion of our service upon technical rulings, upon which we have been unable to procure a trial and decision of the courts until the arrears have reached the neighborhood of \$100,000.

As instructed by the executive committee of the board of directors, I most respectfully make this the protest of the Western Union Telegraph Company, and of the subordinate telegraph companies which it controls, against any further reduction below the rates in operation during the last few years of toll to be paid by the Government for the transmission of its messages as a wrong and injustice to this company, to its thirty-six hundred stockholders, and to its million of other customers.

I have the honor to remain, most respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER,
Postmaster-General, Washington, D. C.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., July 13, 1889.

DEAR SIR: Referring again to your courteous letter of the 11th, on the subject of rates for Government telegrams for the ensuing fiscal year, I desire to say that the rate proposed was upon information furnished to this Department that your company has been making rates to various large corporations that are in some instances as low as the figure now proposed for the Government service. With the notice of this fact I would not be justified in making for the Government a new contract at higher rates than were charged other patrons, especially so in view of the privileges and benefits extended to your company by acts of Congress.

I submit to your own sense of right that the Government, under existing conditions, is entitled to the minimum rate.

Very respectfully,

JNO. WANAMAKER, *Postmaster-General.*

HON. NORVIN GREEN,
President Western Union Telegraph Company,
195 Broadway, New York, N. Y.

NOTE.—A reply similar to this was sent to the Postal Telegraph Cable Company and the Southern Bell Telephone and Telegraph Company.

POSTAL TELEGRAPH CABLE COMPANY,
WASHINGTON BUILDING, NO. 1 BROADWAY,
New York, July 16, 1889.

DEAR SIR: I have the honor to acknowledge receipt of your favor of the 13th instant, in which you inform me that the rate proposed by you to be applied to the telegraph business of the Government for the ensuing year, beginning with July 1 instant, namely, one mill per word whether day or night, and regardless of distance, was based upon information that our company "has been making rates to various large corporations that are in some instances as low as the rate above mentioned." I beg to say that such information is not in accordance with the facts.

The lowest rate charged by us for the transmission of any class of dispatches, other than for publication in newspapers, is 20 cents for ten words, exclusive of the date,

address, and signature, which are transmitted free, and 1 cent per word for each additional word. This rate only applies to local business within the cities of New York and Brooklyn, between New York and Philadelphia, between the Boards of Trade in Chicago and St. Louis, and between the cities of St. Paul and Minneapolis. In these cases the rate has not been regarded as a paying rate, and has not, in fact, been such, but it resulted in the first instance from extreme competition, and has been continued by reason of various considerations other than a profit from the performance of the service.

In the case of transmission of news reports for publication, the service is varied, depending upon the number of copies "dropped," the distance transmitted, and whether sent during the day or night. Taking the average, the rates received for this work during the day do not amount to less than those charged last year for Government messages, while the service is less exacting, and its volume so great as to permit special arrangements for its transmission and delivery which are not practicable in case of any other business. A large proportion of the press service performed by our company is transmitted at night, in many cases being handled by operators employed and paid by the proprietors of the newspapers, and in every way involving considerations which are in no sense applicable to Government or any other class of business.

Under these circumstances, and in view of the facts which we have before presented to you, we trust you will recognize the propriety of allowing at least the rate heretofore paid us for the limited service which the several Departments of the Government have intrusted to us. We have felt hitherto that they have not accorded to us such share of their telegraph business as we would be entitled to if dealt with in proportion to our facilities as compared with those of the Western Union Company.

We have not regarded the business as profitable, but as a matter of prestige and recognition we have been glad to perform such of it as has been handed to us on the terms heretofore prescribed. We assure you that competition with the Western Union Company, which is now limited to ourselves, is a difficult task at best, and we can not afford to carry any class of business for less than the amount which we have to pay out for handling it.

Thanking you for your courteous consideration since the facts in this matter were brought to your attention, I have the honor to be,

Very respectfully, yours,

A. B. CHANDLER, *President.*

HON. JOHN WANAMAKER,
Postmaster-General, -Washington, D. C.

EXECUTIVE OFFICE,
WESTERN UNION TELEGRAPH COMPANY,
New York, July 16, 1889.

SIR: I beg leave to acknowledge receipt of your polite favor of the 13th instant.

The information furnished your Department that this company "has been making rates to various large corporations that are in some instances as low as the figure now proposed for the Government service" is without foundation in fact. I know of no instance in which any corporation, large or small, has a rate for telegraph service that averages as low as that which has been fixed for the Government service annually since July of 1884.

We have contracts for an exchange of service to a limited extent with a large number of railroad companies, they carrying our men and material, and furnishing us labor in constructing, repairing, and rebuilding lines, in return for telegraph service off their lines of road to a limited amount per annum. We have contracts to do service at half the commercial rates with several transportation companies, partly in consideration of what they do for us, and partly in compromise of their claim that the service should come under our railroad contracts, because they are subordinate organizations of the railroad companies. But these contracts stipulate that such half rates shall not reduce the compensation for any message below 20 cents.

Our lowest rates should naturally be those for the transmission of news for publication. It is not an exacting service, but is, in a great measure, a deferred service, mostly done at night, and the great bulk of the reports are sent to a large number of places simultaneously by one sending operator. This is a service of great public interest, towards which we have contributed largely, frequently without profit, and not infrequently without any compensation therefor. For many years we have distributed the President's message over the wires and given it to every newspaper in the country without charge. During the protracted illness of President Garfield, and later of General Grant, we sent out the daily bulletins of their condition to all parts of the country free of charge, as we have also frequently distributed the doings of large political or benevolent assemblages.

I can not conceive why the Government should treat this class of service as a measure for fixing rates for Government messages.

I have had compiled in tabular form the rates for Government service as fixed by the Postmaster-General since they were first fixed in July, 1871, now eighteen years, a copy of which I inclose for your convenient reference. It will be observed that the rate has been 1 cent a word within certain limited circuits from the beginning, the only reductions made being by increasing the length of the circuit. After six years each circuit was increased from 250 miles to 500 miles by Postmaster-General Key; and six years later, by Postmaster-General Gresham, the circuit was made 1,000 miles. The minimum for the first twelve years was 25 cents for a message, and for the remaining six years it has been 20 cents. There was no limit to the maximum rate until July, 1875, when Postmaster-General Jewell made a maximum of 10 cents per word for long distances. This was reduced by Postmaster-General Gresham to 2½ cents per word, which has remained the maximum since.

After trying the Signal Service or weather reports at 2 cents a word a circuit for one year, it was demonstrated that the service was being done at a loss to the telegraph company, and the rate was increased to 3 cents, where it has remained.

This question came up again under Postmaster-General Jewell, and was carefully investigated by Assistant Attorney-General Whiting, who, after taking testimony, reported that 3 cents a word per circuit was as low as the service could be done without loss.

Has it occurred to you that the rate named for the ensuing year is only the one twenty-fifth part of the rate in force for the past five years on distances of 2,500 miles and over? If the Postmaster-General can lawfully make the rate 1 mill per word, which is practically nothing, he would have the power to make it 1 mill per 100 words, which would only more patently obtain the Government telegraph service without compensation therefor.

I beg to add that after an experience of thirty-five years in the management of telegraph companies I am thoroughly satisfied that no message can be received, transmitted any distance, enveloped, and delivered by messenger for less than 20 cents without the service being done at a loss.

I have the honor to remain, most respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER, *Postmaster-General.*

Rates fixed by Postmasters-General on Government messages.

For fiscal year beginning—	Rate.	Postmaster-General.	Minimum count.	Maximum rate per word.
July 1—				
1871.....	1 cent a word for each 250 miles (or fraction thereof).	Creswell....	25 words....	Not limited.
1872.....	do.....	do.....	do.....	Do.
1873.....	do.....	do.....	do.....	Do.
1874.....	do.....	do.....	do.....	Do.
1875.....	do.....	Jewell.....	do.....	10 cents.
1876.....	do.....	do.....	do.....	Do.
1877.....	1 cent a word for each 500 miles (or fraction thereof).	Key.....	do.....	Not limited.
1878.....	do.....	do.....	do.....	Do.
1879.....	do.....	do.....	do.....	Do.
1880.....	do.....	Tyner.....	do.....	Do.
1881.....	do.....	James.....	do.....	Do.
1882.....	do.....	Howe.....	do.....	Do.
1883.....	do.....	Hatton.....	do.....	Do.
1884.....	1 cent a word for 1,000 miles, or less, and one-fourth cent a word for each 250 miles (or fraction thereof) over 1,000 miles.	Gresham....	20 words....	2½ cents.
1885.....	1 cent a word for 1,000 miles, or less, and one-tenth cent a word for each 100 miles (or fraction thereof) over 1,000 miles.	Vilas.....	do.....	Do.
1886.....	do.....	do.....	do.....	Do.
1887.....	do.....	do.....	do.....	Do.
1888.....	do.....	Dickinson...	do.....	Do.

NOTE.—The rate for signal service "circuit" messages has been not to exceed 3 cents a word a circuit since July 1, 1872. For the year beginning July 1, 1871, it was not to exceed 2 cents a word a circuit.

Since July 1, 1884, there has been a rate on *night* Government messages of three-fourths of a cent a word on not less than 20 words, and 1 cent a word on words in excess of 20 words, for 2,000 miles or less; and of 1½ cents a word on not less than 20 words, and 1 cent a word on words in excess of 20 words for more than 2,000 miles, on a minimum count of 20 words. It was fixed by Gresham, and has been continued by his successors.

EXECUTIVE OFFICE,
WESTERN UNION TELEGRAPH COMPANY,
New York, July 27, 1889.

DEAR SIR: Pending our correspondence in respect to your notice of the rate to be fixed for the Government telegraph service, I have not given any information of the questions raised, nor answered any inquiries of news reporters in respect thereto for publication. But your circular to the telegraph companies of July 13, in which you say "that the rate proposed was upon information furnished to this [your] Department that your [our] company has been making rates to various large corporations that are in some instances as low as the figures now proposed for the Government service," was printed verbatim in a number of the newspapers even before I had received the original by post.

I repeatedly declined to be interviewed even upon this most remarkable statement. But its extensive publication throughout the country by many papers, in justification of the rate named for Government service for the ensuing year, and by others with comments on the alleged unwarrantable discrimination in rates to our customers, has proved so embarrassing in our business relations with the various classes of patrons of the telegraph that, in justice to the interests I represent, I can not longer allow the impression it has made to remain uncorrected.

I wrote you on July 16th that "the information furnished your Department that this company has been making rates to various large corporations that are in some instances as low as the figures now proposed for the Government service" is without foundation in fact." "I know of no instance in which any corporation, large or small, has a rate for telegraph service that averages as low as that which has been fixed for the Government service annually since July of 1884."

I did not infer that in the language "various large corporations" you could have referred to the press associations, for very few, if any, of these associations are incorporated, and the larger of them, I know, are only private associations. Nevertheless, after explaining to you that our so-called free service, to a limited extent, for railroad companies, was paid for in kind by the free transportation of men and material, services of their railroad operators, and in most instances the furnishing of labor and other assistance in maintaining the lines, I went on to say that "our lowest rates should naturally be those for the transmission of news for publication. It is not an exacting service, but is, in a great measure, a deferred service mostly done at night, and the great bulk of the reports are sent to a large number of places simultaneously by one sending operator."

"This is a service of great public interest, toward which we have contributed largely, frequently without profit, and not infrequently without any compensation therefor. For some years we have distributed the President's message over the wires and given it to every daily newspaper in the country without charge. During the protracted illness of President Garfield, and later of General Grant, we sent out the daily bulletins of their condition to all parts of the country free of charge; as we have also frequently distributed the doings of large political or benevolent assemblages. I can not conceive why the Government should treat this class of service as a measure for fixing the rates for Government messages."

I might have added that in every scourge of yellow fever and cholera, and in every devastation by flood or fire, we have done for public information, and for private relief, a large amount of service without charge. In the late great disasters at Johnstown and Seattle our entire available facilities at those places were given to public use for several days. But it had never occurred to us that the Government was in such straits as on this account to require its services to be done practically for nothing, or without paying a just compensation therefor, as I believe the Constitution and the laws intended and will compel it to do.

Except the arrangements with railroad and transportation companies referred to, and rates for press and commercial news service, we make no reduced rates to any corporations or other patrons, large or small. For messages transmitted and delivered to a single address the Government is our only customer that enjoys reduced rates.

As to the great privileges and benefits derived by this company from the act of 1866, they are purely imaginary. I am not aware that we have ever taken a stone or stick of timber, or appropriated a foot of land belonging to the Government, under that act; and where we have needed to build a line across lands belonging to the Government, as in a late instance across the lands along the canal around the Falls of Ohio, we have had more trouble and delay in procuring the right to set our poles than if the lands had belonged to private parties.

I have the honor to remain, most respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER, *Postmaster-General.*

POST-OFFICE DEPARTMENT,
OFFICE OF POSTMASTER-GENERAL,
Washington, D. C., August 2, 1889.

DEAR SIR: Referring to your letters of July 11, 16, and 27, which have been given to the public press through channels other than this Department, and in which you protest against any new rate for Government telegrams, and offer various arguments to prove that the old rate of 1 cent a word is as low as your company can accept without loss, I beg leave to say:

First. Your unqualified statement that "the privileges and benefits derived by your company through the acts of Congress are purely imaginary," and the companion assertion that your company has never "taken a stone or stick of timber, or appropriated a foot of land belonging to the Government" under such acts, are not sustained by the facts.

It is an undeniable fact that the telegraph companies, in accepting the act of 1866 and afterwards the supplementary acts, considered they were gaining special and actual benefits which fully compensated them for the low rates intended to be granted to the Government, and the representatives of the Government likewise supposed that they were securing some benefits for the valuable concessions being made to the telegraph companies. The telegraph companies not only accepted the acts expecting substantial benefits would ensue, but in the case of the Western Union Telegraph Company notably great and conspicuous benefits have already accrued. Under these grants the company has claimed the right to use, without compensation of any kind as to right of way, all the highways of the country, on the ground of their being post-roads. It has broadened this claim to the extent that the streets of cities and towns are also post-roads, and therefore open and free to its occupancy and use. The courts have sustained it in this claim. You are necessarily familiar with the Pensacola case, in which the Supreme Court of the United States decided that the Western Union Telegraph Company had rights which even the sovereign State of Florida could not annul.

Thus, under the benefits of this act, instead of not occupying a foot of public land, as you assert, you are, in fact, occupying many thousands of miles of post-roads, and are privileged to occupy all the highways in the United States. You have thus been able to occupy and use the streets in the large cities of Philadelphia and New York regardless of the views of the local authorities, and almost regardless of public opinion. Even the elevated railroads in New York City have been claimed as post-roads and the claim sustained. The State of New York may regulate in the use, but is not able to deprive you of these great privileges secured to telegraph companies, and maintained to them alone, by the Congressional act of 1866. Beyond this, the streets of all other cities and towns of the United States have been kept open to your use. I am sure that, upon reflection, you will hardly claim that such great benefits as these are "purely imaginary."

In other respects your company and other telegraph companies have secured substantial benefits from the Government and from the public under acts of Congress, but these I have mentioned are enough, I think, to sustain my former reference to the privileges and benefits given to you by the Government, the value of which, in my judgment, is beyond calculation. Conferring such great privileges and benefits upon you, the Government, in my belief, expected and is entitled to receive not simply your exceptionally low rates to others, but even a lower special rate.

Second. As to your question of the legal power of the Postmaster-General to fix the rate for Government messages, I would only remark that such right appears to have been understood by the previous Postmasters-General as an official duty, and their exercise of the right or performance of the duty has been generally and constantly accepted and respected by the telegraph companies. In any event, I should say we may agree that the act of Congress at least imposes on the Postmaster-General the duty to name the rate and maintain it until in a court of inquiry the rate has been shown to be unjust.

Third. As to your qualified statement that no corporations have received a rate equal to the proposed Government rate of one mill a word.

Your statement that the press associations are not corporations is hardly justified by the facts, and is not material to the question. They may not be corporations for general business, but most if not all of them are incorporated under the laws of some State, and their dealing with the telegraph company is as a company or corporation, not as individuals. You will not deny—indeed, one of your officials has admitted to me—that some of the press associations get their news reports for a mill a word to each newspaper, and in one association the rate is even lower than that. I do not criticise the press rate; it is not too low. It would be better, in my judgment, for the public, the press, and the telegraph companies, if it were still lower. As to the Asso-

ciated Press, there is force in your statement that it is a wholesale rate, as it were, for the same dispatch sent over the same wire at the same time to several customers, but is it not true that the rates given to some portions of the press effectively contradict your own statement that "for messages transmitted to a single address the Government is our only customer enjoying reduced rates."

By this I presume you mean that the Government has the lowest rate given to any single customer, its lowest rate being 1 cent a word for day messages and three-fourths of a cent for night messages; but this charge is made not only upon the message itself, but upon the address and signature as well, so that for ten words in a message and ten words in the address and signature, the above rate is, in fact, 2 cents per word in the day time, and $1\frac{1}{2}$ cents per word at night. Is it not true that the large papers of New York, Chicago, and other large cities have a half-cent rate for their special dispatches in day time, and a fourth of a cent at night, or a rate one-half lower than the Government has been granted? Is it not true, also, that this patronage from the enterprising press is the most profitable that you have, and that it would, in fact, give you still more profit if made still lower? Reduced rates bring increased business and enlarged profit. Your own testimony before committees of Congress, at various times, has been steadily to the effect that every time your company has reduced prices it has gained increased income.

This accords with my own view that a constantly decreasing rate, where there are large numbers of customers, will both better serve the public and better profit any business. I believe that the new rate proposed for the Government would not materially alter the amount of cash received by you, while the Government would be enabled to greatly quicken and vitalize the transaction of its business in all departments.

It is quite true, as you say, that the Government is able to pay proper rates, and I may add that, so far as I know, is willing to pay just rates, and that it is farthest from my thought that "the people" should suffer by reason of the losses you claim that you are now making and would still further make on Government business. I am satisfied that the people could and should have much lower rates than now exist, and that neither the people nor the Government should suffer because specially low rates are given to favored customers.

While claiming that the Government has received the lowest single-address rate, you not only admit a lower rate to the press, but also plainly say that certain railroads or transportation companies are given "half commercial rates." When it is considered that in Government messages all the words are counted, the address and signature as well as the message, and in all other telegrams the message only is counted, is it not true that this half-rate to such companies is at least as low as the Government rate, and in some instances lower? For instance, a Government message from Washington to New York, containing twenty words in the message and ten words in the address and signature, would be charged at 30 cents, which is nearly 50 per cent more than the transportation companies would pay for the same message. I am not speaking now, and do not now wish to have confused with this part of the discussion, the free service you give to railroads for certain free service to you. These payments I understand to be for rights of way, etc. More than that, I am informed your company in many cases actually pays large sums of money to railroads for rights of way, and it does not seem unreasonable to suppose that it would not be out of place for the telegraph companies to be expected to make compensation of some kind to the Government for its much larger concessions, which, in effect, have secured to you the enjoyment, particularly in cities and towns, of much more valuable rights of way.

Fourth. As to your statement that no message can be carried and delivered by a telegraph company for less than 20 cents without the service being done at a loss. The cost of telegraphic service appears to be a very difficult thing to ascertain definitely. Perhaps in establishing the proper rate for the Government to pay, this subject may best be referred to a commission to ascertain the facts. In one of your letters you put the average cost of a message to the company in receiving, carrying, and delivering at 23.2 cents. In this cost do you not include large sums paid for rentals of leased lines, some of which are not now in use, but only valuable to you in removing competition, rights of way on railroads, and on other accounts, which are obviously chargeable to capital account, and not to operating expenses? Is it not true that within a few years, and for several years in succession, large volumes of business have been handled by your company and other companies at a minimum rate of 10 cents a message, and did not this rate continue until the Western Union absorbed the competing lines? The table of statistics given in your memorial to the Senate committee in 1888 shows that during the period of the 10-cent rate your company did not lose money, but made large profits. If this were possible then, and especially as your business has grown very largely in volume since, it would seem that it might be practicable now.

I understand that the Signal Service reports make up a very large proportion of the entire amount of Government telegraphic business. Your schedule shows that for eleven years the Government has been paying about 3 cents a word for each circuit over which Government messages are transmitted. No reduction whatever has been made in that rate since 1877, but within that period you have reduced the public rate from 62½ cents to 30 cents per message, more than 50 per cent reduction, and the cost of handling telegrams has been reduced during the same period from 43.4 cents to 23.2 cents per message, or over 46 per cent reduction. Within the past five years the public rate has fallen 18 per cent and the cost of transmission about 8 per cent, but within that period there has been no reduction whatever in the Government rates.

Taking all these facts into account, I believe that the Government has been paying for its telegraphic service more than any other customer giving you a like or approximate amount of business, and that within the period first named there has not been so great a reduction in the Government rates as to the general public and the press. Waiving entirely the question of benefits accruing to the telegraphic companies under the act of 1866, the Government ought to be put upon as favorable a basis as to telegraphic rates as your most favored customers.

Inasmuch as this discussion has taken a wider range than I anticipated, it may be proper to add, referring to your letter, that you are right in saying that the acceptance by telegraph companies of the act of 1866, "rendered it to all intents and purposes a compact between the Government and telegraph companies." But I do not agree with all of your next succeeding statements. For instance, the printed copy of your memorial presented to the Senate Post-Office Committee last year misquotes the act of 1866, which should read:

"Provided, however, That the United States may at any time purchase all the telegraph lines, property, and effects of any or all companies acting under the provisions of the act of July 24, 1866."

The words "any" and "or" are omitted in your memorial. This omission was, of course, an error, but as your present correspondence expresses the same meaning, I mention the matter merely to remark that your views in that particular are not adopted by this Department. The act of 1866 was, as you say, a compromise measure in which the United States for the time being waived its inherent right to the performance of a telegraphic service in conjunction with the post-office. The first telegraph line in this country was built with Government aid, and that the Government did not continue to exercise its undoubted prerogatives by extending and operating the telegraph as a more speedy means of communication than the post was, as is well known, purely an accident.

I have given full and respectful consideration to your protest, weighed your arguments, and investigated the subject for myself through such channels as are open to me, desiring only to protect the interests of the Government.

In conclusion, I beg to remind you that in my letter of July 13, in answer to yours protesting against the reduction, I consented to your request for conference on the subject before any official order to the Departments fixing the rate should be issued, and I am yet quite willing to entertain any reasonable proposition based upon the known facts.

I have the honor to remain, very respectfully, yours,

JOHN WANAMAKER, *Postmaster-General.*

MR. NORVIN GREEN,
President Western Union Telegraph Company, New York.

EXECUTIVE OFFICE WESTERN UNION TELEGRAPH COMPANY,
New York, August 8, 1889.

DEAR SIR: Acknowledging the receipt of your letter of August 2, I beg to say I much regret that the publication of my letters to you, to which you refer, was rendered necessary by the extraordinary statements "on information furnished this (your) Department," contained in your letter of July 13, and extensively printed in the newspapers on the following day.

You again refer to the privileges and benefits derived by this company through the acts of Congress, and especially the act of 1866. You say: "Under these grants the company has claimed the right to use, without compensation of any kind as to right of way, all the highways of the country, on the ground of their being post-roads. It has broadened this claim to the extent that the streets of cities and towns are also post-roads, and therefore open and free to its occupancy and use. The courts have sustained it in this claim."

Either you or we are very badly informed by our respective legal advisers as to what has been claimed by the telegraph company and held by the courts in respect to the scope and authority of that grant. I have had occasion, from time to time, to go through the records in a great many cases, but I do not recall any instances in which such claim has been made and sustained by the courts. What we understand the Government did give us, in the act of 1866, was a franchise and right to do telegraph business in all the States, and this franchise was given alike to all telegraph companies, or other parties who might accept it; and subsequently, by what was known as the Butler amendment, it was especially extended to all railroad companies. But the act never assumed to give us, and could not give us, the right to plant our poles on any but lands actually belonging to the Government; and that right we have very rarely exercised, except when the Government wanted us to extend lines for the convenience of the Government into its navy-yards and military posts and stations, or to its Department quarters in the city of Washington. Had you carefully read the decision in the Pensacola telegraph case, to which you refer, you would not have fallen into such a grievous error upon this point. Chief Justice Waite, in the body of the opinion, thus defines the scope of the act of 1866 under consideration:

"No question arises as to the authority of Congress to provide for the appropriation of private property to the uses of the telegraph, for no such attempt has been made. The use of public property alone is granted. If private property is required, it must, so far as the present legislation is concerned, be obtained by private arrangement with its owner. No compulsory proceedings are authorized. State sovereignty under the Constitution is not interfered with. Only national privileges are granted."

The decision in this case, therefore, was that the State of Florida could not prohibit the Western Union Telegraph Company from erecting and operating its lines of telegraph in that State after it had acquired a right of way for its plant from a railroad company of that State, but did not hold that it was exempt from the obligation to buy or condemn under State statutes the property necessary to enable it to build its lines.

The railroads are post-roads, as well as some of the highways, and if the Government gives us the right of way on post-roads why should we have to pay the railroad companies for it? We have to contract for and obtain our rights of way from the parties who own them, whether railroad companies, turnpike and plank-road companies, or individual landowners; and in case of streets and highways we have to obtain license from the city, county, or State authorities, or condemn under authority of State laws.

I sincerely wish that your ideas of the law that we "are in fact occupying many thousands of miles of post-roads, and are privileged to occupy all the highways of the United States" under the grants of that act may prove sound in law; but we have not relied upon that interpretation of the law, and fear it would not be sustained by the courts. Our occupancy of the streets is always by license of the local authorities or of the State, and in the case of the Elevated Railroad Company in the city of New York, to which you refer, we pay the companies who own the structure for the right to string our wires thereon.

The act to which you refer gives the telegraph companies accepting it the right to take stone and timber from the public lands, and to preempt and enter not exceeding 40 acres for each station. We have never needed to use any stone; and since the passage of that act the railroads across the continent have afforded ample facilities for transporting cedar for poles, which is more durable and economical than the native timber that might possibly be found accessible on unoccupied Government lands. As to preempting 40 acres of land for a station, we have found that wherever a telegraph station was needed there were no unoccupied Government lands; and if we were to establish a station on any 40 acres of unoccupied Government lands it would be in a locality that would yield no revenue. It is true, therefore, that we have never taken a stone or stick of timber, or appropriated a foot of public land under that law.

The franchise granted this company, in common with other parties, was not supposed to be solely for our benefit, but to secure convenient facilities to the public. The effect of establishing our right to do business in Pensacola was to wipe out a charge of \$1 for a ten-word message for a distance of 45 miles over a line that claimed the exclusive franchise under the State law, and the establishment of a branch office in the navy-yard at that port which to this day we are operating for the benefit of the Government at a loss—the business of that office not being sufficient to pay the salary of the operator.

Second. We seem to be getting nearer together as to the power and duty of the Postmaster-General to name the rate of tolls to be paid on Government messages. I only claim that this power and duty are limited by the Constitution to a just com-

compensation for the service required, and that a just compensation must cover the actual cost of the service with something added for the use of facilities necessary to perform it; and as you say the Government is willing to pay just rates, we have come quite to an agreement on the principle that must govern the fixing of rates to be paid.

Third. I still insist that the Government is our most favored customer, and that the rate for Government service during the past five years, considering the character of the service, is lower than that given to any other patron. The Government rate has been 1 cent per word for a thousand miles or less. You may make up a supposed message, with address and signature of unusual length and twenty words in the body, sent a short distance under our half-rate contracts with certain transportation companies, and show that it is a trifle less than the Government rate; but the half-rate is generally higher, and you forget that this half-rate in money is not all we get. To it must be added the value of what those transportation companies do for us. But when you apply even the strongest supposed case to a message between New York and Chicago, or Washington and St. Louis, you will find the Government rate is the lower.

There is no comparison between the service for the newspapers (even the special rates to one newspaper) and messages transmitted for the Government. A special of 1,500 words would make 50 Government messages of 30 words each, each message requiring a separate checking, booking, numbering, routing, enveloping, and a special delivery. We often have a special news report of 5,000 words or more, equal to over 166 messages of 30 words each, whilst our commercial and social messages average but about 17 words, including address and signature.

In my former statement that for messages transmitted and delivered to a single address the Government was the only customer that enjoyed a reduced rate, I distinctly excepted in the context the service for the newspapers, arrangements with railroad and transportation companies, and the distribution of commercial news reports.

It is not true that this company gives the large papers of New York, Chicago, and other large cities a day rate of one-half a cent per word and a night rate of one-quarter of a cent per word. That rate applies only between New York, Philadelphia, and Washington. Nor is it true that this company gives the large papers of the large cities any lower rate than it gives the small papers of the large cities or the small papers of the small cities. The press rate, which is based on our commercial rate, is the same to every paper in the same city or town, great or small, whether it does business to the extent of \$1 per year or \$100,000.

It is not true that the patronage from the press is the most profitable we have. There is little or no profit on the regular press service as a whole, and very little on the special press service, and it would not add to our profit if the rate was made still lower. However, as it is based on our commercial rate it necessarily is reduced with it. The question of our press rate has been much discussed with the press associations, who, having many lines leased which they operate themselves, are quite familiar with the cost of rendering it, as they are with the cost of like service in other countries; and it was found and admitted that the press rate of this country, considering distances, is the lowest of any country in the world and the most liberal in its application.

On the Signal Service reports since 1872 the rate has been reduced, as in case of other Government service, by lengthening the circuits. Until about 1884 the circuit for Signal Service, paying 3 cents per word, was counted as a practical working circuit. A compound circuit, requiring the use of repeaters, as from New York to Milwaukee, with drops, was charged and paid for as two circuits, or at the rate of 6 cents per word. So also were the circuits from New York to Eastport, Me., and from Cincinnati to New Orleans; whilst the circuit from Chicago to San Francisco was rated as four circuits, or 12 cents per word. San Francisco to San Diego, and San Francisco to Olympia, Wash., were each rated and paid for as three circuits, or 9 cents per word. Others were counted double or triple circuits. Now we are only paid 3 cents per word for each of these circuits; so that the rate for Signal Service reports has, on a number of circuits, been reduced to one-half, and on others to one-third of the amount previously paid. If we had been paid last year for this Signal Service on the same basis as in 1872, we would have received nearly twice as much as we did.

Whilst the rate on Government messages, fixed so nearly at the cost of the service at the start, has not been entitled to, and could not be expected to have, a corresponding reduction with the rates to the public from time to time, yet the facts show that on a large class of Government business the reduction has been much greater than that made to the public. Up to July, 1877, the Government rate was 1 cent per word for 250 miles or less, and 1 cent per word for each additional 250 miles or frac-

tion thereof, with not less than twenty-five words to be counted. For a fraction less than 1,000 miles, therefore, the rate for a twenty-five-word message was \$1, for 2,000 miles it was \$2, and for 3,000 miles it was \$3; for 750 miles it was 75 cents, and for 500 miles it was 50 cents; whilst for 250 miles or less it has remained the same, except that the minimum is twenty words instead of twenty-five words.

Since 1884 the rates on the same message for 3,000 miles would be 63 cents; for 2,000 miles, 50 cents; for 1,000 miles and all distances under that, 25 cents.

The reduction, therefore, on the long distance has been about 80 per cent; on 2,000 miles, 75 per cent; on 1,000 miles, 75 per cent; on 750 miles, 66 per cent; on 500 miles and down to anything over 250 miles, 50 per cent; whilst for 250 miles and less it has remained the same. The average reduction in 12 years has probably been in the neighborhood of 50 per cent.

For the year ending July, 1877, our average rate to the public was 43.6 cents per message. Last year it was 31.2 cents per message, the reduction to the public being something less than 30 per cent. In the same period the cost to the company of handling messages has been reduced from 29.8 cents per message to 23.2 cents, being about 20 per cent. So that the reduction on the Government service has been two and one-half times greater than the reduced cost of handling the messages and two-fifths greater than the reduced rate on commercial messages.

The sum of it all is that the Government has given us nothing that cost the Government anything or that was of any value to the Government to retain, nothing that has not been worth more to the Government and the public than we should have, than it has been worth to us; whilst in consideration thereof the Government, by its reserved power, has been making a saving for a number of years at the rate of nearly, if not quite, \$100,000 a year in the cost of its telegraph service below what other customers pay, whilst it enjoys, as it should, a preferred service over all other business.

I have the honor to remain, very respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER, *Postmaster-General.*

P. S.—Although I have treated the press service as not properly comparable with the transmission of Government messages, I desire to say that in point of fact if the Government had paid us during the past several years the rates stipulated by contract with the Associated Press on news dispatches bearing one address the aggregate revenue for Government service would have been larger than it was at the rates the Government paid.

N. G., *President.*

POST-OFFICE DEPARTMENT, OFFICE OF POSTMASTER-GENERAL,
Washington, D. C., October 30, 1889.

DEAR SIR: Referring to the question of establishment of rates for Government messages for the fiscal year ending June 30, 1890, I desire to call to your attention that by letter of July 2d you requested "official declaration" of the new rate to be withheld until opportunity could be had for conference, which request was promptly complied with.

After considerable correspondence and the several interviews with you at Saratoga, you proposed to come to Washington for further discussion of the subjects at issue.

I had the honor of a visit from you early last month, and when I parted with you I understood you to say that you would call the next day, at which time I expected that we would reach a conclusion, at least to the extent of an agreement, upon the basis of rates for the Government telegraphing for the present fiscal year.

I regret that you did not find it convenient, then or since, to pursue the subject further, and beg now to say that inasmuch as a more than "reasonable time" has been granted for conference, it is necessary for me to fix definitely the new rates for the year.

I desire to state that I have availed myself of all accessible sources of information to ascertain the rates and rebates in force with the various classes of customers of telegraphic business and have weighed carefully all your able arguments in relation to rates, and while I can not admit your claim that the privileges accord to telegraph companies by the act of Congress of 1866 are not and never have been of any value to your corporation, I am impressed with what you say in opposition to the application of Associated Press rates to Government business, and consequently have for the current fiscal year revised the order fixing rates and issued the same this day to all the Departments of the Government. A copy of the order is herewith inclosed.

As the reduced rates hereby determined for day messages are practically the same as those upon which one of the divisions or departments of your company, as well as one of its principal competitors, transacted business for the public generally for a considerable time until absorbed by your company, I presume no question can arise as to the fairness of these conclusions.

Permit me also to add that while there is no necessity or intention to place any burden upon your company, yet I am convinced that the Government is entitled to very special consideration in rates and privileges of telegraphic service. Therefore, for the purpose of determining Government rates in the future, I now formally propose what I have already suggested and understood you to be willing to approve, viz, the appointment of a commission of five suitable persons (two by your company, two by this Department, and the fifth by the four so chosen) to inquire and report to this Department and to your company upon the actual cost and proper value of telegraphic service, their conclusions to embrace a recommendation of equitable rates for the Government telegraph service for the next succeeding fiscal year.

Very respectfully, yours,

JOHN WANAMAKER, *Postmaster-General.*

DR. NORVIN GREEN,

President Western Union Telegraph Company, New York.

Rates of pay for communications by telegraph.

POST-OFFICE DEPARTMENT,
Washington, D. C., October 30, 1889.

Pursuant to the authority vested in the Postmaster-General by the act of Congress entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 24, 1866, and by the Revised Statutes of the United States, Title LXV, I hereby fix the rates at which such communications as the said statutes prescribe (not including those passing over circuits established by the Chief Signal Officer of the Army) shall be sent during the fiscal year beginning July 1, 1889, and terminating June 30, 1890, by the several companies within the effect of said statutes as follows:

For day messages containing not more than ten words exclusive of place from, date, address, and signature, ten (10) cents for all distances not exceeding four hundred (400) miles, and one-half ($\frac{1}{2}$) cent for each word in excess of ten words, all distances being arbitrarily determined by the method hereinafter stated.

For distances so determined exceeding four hundred (400) miles and not exceeding one thousand miles, fifteen (15) cents for the first ten words counted as above provided, and three-fourths ($\frac{3}{4}$) of one cent for each word in excess of ten words.

For all distances exceeding one thousand miles there shall be added to the price of the message fixed for distances over 400 and under 1,000 miles the sum of $\frac{1}{2}$ cent for each word counted as above provided.

In cases where the price of a message determined as herein provided shall include a fraction of a cent, such fraction if less than one-half is to be disregarded; if one-half or more it is to be counted as one cent. This applies only to single messages, and the totals of bills containing two or more items.

For night messages of not exceeding twenty (20) words exclusive of place from, date, address and signature, fifteen (15) cents for all distances, and one-half ($\frac{1}{2}$) cent for each additional word.

Instead of computing the actual distances of transmission, the distance for payment shall in all cases be taken absolutely to be the number of miles between the capital of the State or Territory, or from the city of Washington, if from within the District of Columbia, from within which (whatever the place) the message is sent, and the capital of the State or Territory, or the city of Washington, if within the District of Columbia, within which (whatever the place) the message is received, as shown in the accompanying table, wherein such distances are given as computed upon the shortest practicable route between such capitals, and which is to be taken as part of this order: *Provided*, That if the message be sent and received within the same State, Territory, or said District of Columbia, the distance for payment shall be taken absolutely to be the minimum distance of four hundred miles.

But it is provided that if at any time during the year ending June 30, 1890, any such company shall charge the public for a message of ten (10) body words a less rate than is herein fixed for a like number of body words the rates herein prescribed shall, as to such company thenceforth during the year, be reduced to the rates so charged to the public.

The rate for all messages in cipher, known as the Signal Service Weather Report, is hereby fixed at not exceeding two and one-half (2½) cents for each word sent over each circuit as now or hereafter established by the Chief Signal Officer of the Army; all messages sent over a circuit, being dropped at all designated offices therein, without additional charge.

The statutes provide that telegrams between the several Departments of the Government and their officers and agents, in their transmission over the lines of any such company, shall have priority over all other business. All officers of the United States sending such telegrams should indorse thereon the words "Official Business," and should report to the Postmaster-General any failure to transmit them in such priority and any charge made in excess of the rates above prescribed.

Each company will be allowed to charge for messages received from another line at the same rate as if received from the Government direct at the point of transfer for transmission over its own line.

JOHN WANAMAKER, *Postmaster-General.*

The Western Union Telegraph Company—Action of executive committee, November 6, 1889.

Whereas, on the 29th day of June, 1889, the Postmaster-General of the United States officially announced to telegraph companies that under the provisions of the act of July 24, 1866, they would be required to transmit the official messages of the United States for a compensation of 1 mill for each word without regard to distance, a price which could in no sense be said to compensate the service; and

Whereas, on the 30th of October, 1889, the Postmaster-General, by public circular set forth, as established under the provisions of said act of July 24, 1866, a schedule of rates for all telegraph companies controlled by the provisions of said act, which rates also are materially below the necessary cost to this company and to others of transmitting the messages of the United States; and whereas this company is obliged to consider the enforcement of said rates as a confiscation of its property to that extent, and is advised that obvious injustice under said act is remediable at law:

Resolved, That this company will transmit, as heretofore, with due priority and diligence, all telegrams between the several Departments of the Government and their officers and agents; but this company will not accept as final payment the rates above established until its rights in that regard have received such further consideration as it may be able to secure; and the president of this company is hereby directed to file a copy of this our protest with the heads of the several Executive Departments of the United States.

Copy from the minutes.

[SEAL.]

A. R. BREWER, *Secretary.*

EXECUTIVE OFFICE WESTERN UNION TELEGRAPH COMPANY,
New York, November 12, 1889.

DEAD SIR: I have your favor of October 30, inclosing your official order of same date, purporting to fix the rates for Government telegraph service for the fiscal year.

The order has had all the careful and deliberate consideration that an official document from such a high source is entitled to receive, and after such full consideration the executive committee of the board of directors has expressed itself unanimously in a preamble and resolutions, a copy of which I inclose to you herewith.

From the rates fixed last year, which were not remunerative, your present order makes an average reduction of a fraction over 40 per cent. On messages transmitted less than 400 miles—which embrace the larger number of Government messages—the reduction is 50 per cent; and on transcontinental messages the reduction is from 50 to 20 cents each on the minimum message, or 60 per cent. On the Signal Service of the War Department, commonly known as the "Weather reports," the reduction is one-sixth, or something over 16 per cent. The statement upon which you "presume that no questions can arise as to the fairness of these reductions" is that "the reduced rates hereby determined are practically the same as those upon which one of the divisions or departments of your company, as well as one of its principal competitors, transacted business for the public generally for a considerable time."

The fact that the Mutual Union Telegraph Company, a small organization belonging to this company, did, for a time, meet the Baltimore and Ohio Telegraph Company in sending messages short distances and between very few points, at 10 cents,

is no evidence that no loss of money was involved. If those companies had made, as you propose, a rate of 10 cents between all points less than 400 miles distant from each other, the Baltimore and Ohio Telegraph System would have been sold out by the Baltimore and Ohio Railroad Company as a bad investment long before it was sold; and that rate would have reduced the earnings of the Western Union Company below its actual expenses in that important department of our business.

If the entire message business of this company for the fiscal year just closed had been sent at the rates named in your last circular, our total receipts from that source would have been about \$4,000,000 less than the actual cost to us of transacting that business. If the messages sent by the Government were equal in number for the several distances, the rate named in your circular would average 15 cents for the minimum message of ten body words, estimating ten words free for address and signature; but as very much the greater number would be sent distances under 400 miles, and at the lowest rate established, it is probable that an average of 15 cents would allow for two or three additional body words in each message.

If the whole of the 54,108,326 messages sent during the last fiscal year had paid us but an average of 15 cents, the aggregate revenue for transmitting messages would have been \$8,116,248.90. Our total expenses were \$14,565,152.61. After deducting from the expenses the amount paid other lines, the refunded and uncollected items, the rental and operating cost of our Atlantic and Cuba cables, the cost of maintaining leased wires, and the rental for and expenses of the gold and stock and commercial news department, there are still left as expenditures strictly pertaining to the handling of messages \$12,118,561.17, which the entire revenue at the rates you name would lack over \$4,000,000 of meeting. Even if the Government messages were much longer than I estimate, and should yield (which is scarcely possible) an average of 20 cents each, and all our business were done at that rate, there would still be a deficit of about \$2,000,000 in that department of our service.

Commodore Vanderbilt once met the attack of a competing line of steamers by establishing a passenger rate of 10 cents between New York and Albany. Nobody supposed that 10 cents was a remunerative rate for so long a passage, but the move proved effective, because it enabled the commodore to buy the competing line without paying a speculative price for it. Such a course is sometimes entailed by circumstances upon this company. Competing companies are often formed, not for business profits, but to force us to buy them out or retire from the field. When such competition occurs, it is a transient and isolated feature of our message business. To seize upon one such feature, and, so far as your office as an umpire may control, to make that the basis of a rate to be charged on Government business, seems to us not judicial, but vindictive.

It is this view you have taken that we especially regret. We may seem to deserve reprehension, but the statute under which you are acting is judicial and not penal. The award made annually by your predecessors has sometimes subjected us to injustice; but we could ascribe to erroneous judgment the fixing of a rate designed to remunerate us for the service, but which in fact imposed a loss upon us. We have borne the loss in such cases without complaint, even yielding to the wish of the Departments to have the messages sent by them not confined to the definition of the statute, but to include all their official business. Upon the present occasion a course is pursued which gives your high official sanction to an attitude toward us which we consider so unjust and so well calculated to operate prejudicially to our general telegraph business that we feel compelled to enter our earnest protest against it.

The further course you suggest of a board of arbitration is within what we have always proffered. We have stood ready always to supply to the incumbent of your office the fullest opportunity for search into the cost of telegraphic business, and to accept freely his impartial judgment. If you prefer to delegate that judgment to a board composed as you suggest, leaving the rates for this year to be governed by that result, we shall be glad to meet it.

Respecting the personal interviews referred to in your letter, I regret that there was a misunderstanding as to any positive engagement to see you again after our last conference. When we separated you asked if you should see me again. I answered that I did not know of any good that could come of further conference, but that if I found time in the forenoon of the next day I would make you a short call. The next morning I had some business at our telegraph office, and on returning to my hotel I learned that you had called and expressed regrets at my being out. If I had had the least intimation that you intended to call on me, I should certainly have awaited your arrival.

I have the honor to remain, very respectfully, yours,

NORVIN GREEN, *President.*

HON. JOHN WANAMAKER,
Postmaster-General.

NEW YORK, November 14, 1889.

DEAR SIR: I have received your circular letter dated October 30, and addressed to the several telegraph companies now being operated by the Postal Telegraph-Cable Company, and have directed such of our agents as have occasion to deal with Government messages, to collect for the service we have performed for the Government since the 30th day of June last, and hereafter, until further notice, the amounts due us based upon said rates.

Since it is true that the payment so to be made is considerably less than the actual cost to us of performing the service, in view of the facts stated to you in my former letters on this subject, we regard your action in this matter as an injustice which even the Government of the United States has no right to inflict, and we can only accept the payment for our service upon the basis named, reserving to ourselves any rights that we may be able hereafter to obtain in the premises.

Very respectfully yours,

A. B. CHANDLER, *President.*

HON. JOHN WANAMAKER,
Postmaster-General, Washington, D. C.

NOVEMBER 16, 1889.

SIR: I beg to acknowledge the receipt of your letter of the 14th instant upon the subject of Government telegraph rates for the current fiscal year.

Very respectfully,

JOHN WANAMAKER, *Postmaster-General.*

MR. A. B. CHANDLER,
*President Postal Telegraph-Cable Company,
1 Broadway, New York, N. Y.*

POSTAL TELEGRAPH CABLE COMPANY,
New York, May 27, 1893.

DEAR SIR: In the month of June, 1889, your predecessor, Mr. Wanamaker, issued an order by which he sought to reduce the rates for the transmission and delivery of telegrams for the United States Government to a rate so low that it would scarcely have afforded compensation for the stationery required.

After vigorous protest on the part of the telegraph companies, he issued an order on the 30th of October, 1889, naming rates much higher than those contained in the order of June, but still far below the actual cost of the service.

This company has never accepted business of the Government for transmission under the order of October 30, which has continued substantially the same until the present time, except under protest, and found it necessary to issue an order soon after it was ascertained that no modification could be had of the unreasonable and unjust exaction prohibiting the acceptance of messages for transmission in part over the lines of this company and in part over the lines of connecting companies and advising the rejection of messages which could be sent to destination by the lines of any other company, except when their acceptance might be insisted upon by agents or officers of the Government. The result has been that our service for the Government since June, 1889, has been comparatively small. The tolls have amounted, however, to several thousands of dollars, bills for which have been rendered from time to time by our agent in Washington, but we have never been able to collect the money due us for service that has been rendered and charged for at much less than the actual amount of money paid out by us to perform it.

As the time is now approaching when you will no doubt be considering the issue of instructions upon this subject for the coming year, I take the liberty of reminding you of this very unjust condition of affairs as between the Government and our company, and of suggesting that in the orders to be issued an equitable consideration of our rights shall be had, such as has been exercised by every Postmaster-General since the law was enacted, except Mr. Wanamaker.

Very truly,

A. B. CHANDLER, *President.*

HON. W. S. BISSELL,
Postmaster-General, Washington, D. C.

[NOTE.—The Post-Office Department is of the opinion that Postmaster-General Bissell met Mr. Chandler in conference after receipt of the foregoing letter, and an agreement being reached a written reply was not deemed necessary.]

POSTAL TELEGRAPH CABLE COMPANY,
OFFICE OF MANAGER,
Washington, D. C., December 14, 1898.

SIR: I beg to report that I am sending to your Department, through the office of the superintendent and disbursing clerk, certain telegraph bills for service rendered the Department during the Wanamaker régime.

It is my understanding that these accounts were promptly sent in with our protest against the rates then in force attached, and that the Department declined to accept them with the protest. They were then recalled after a time.

The protest has now been detached, and I respectfully ask that provision for payment be made in the next deficiency appropriation.

Very respectfully,

G. W. RIBBLE,

Acting Manager Postal Telegraph Cable Company.

The POSTMASTER-GENERAL, *Washington, D. C.*

JUNE 26, 1899.

SIR: Referring to your letter in which you request that this Department provide in the next deficiency appropriation for the payment of certain telegraph bills for service rendered to this Department during the term covered by the rates fixed by Postmaster-General Wanamaker, to which your company protested, I have to advise you that under the provisions of the act of June 14, 1878, quoted below, this Department could not take the action you desired, as the balances of appropriations have been carried into the surplus fund over five years ago, and it will therefore be necessary for your company to seek its relief in Congress.

Act of June 14, 1878 (1 Supp. R. S., 180):

"It shall be the duty of the several accounting officers of the Treasury to receive, examine, and consider the justice and validity of all claims under appropriations the balances of which have been exhausted or carried into the surplus fund under the provisions of said section that may be brought before them within a period of five years.

"And the Secretary of the Treasury shall report the amount due each claimant to Congress for consideration."

Very respectfully,

BLAIN W. TAYLOR.

G. W. RIBBLE,

Acting Manager Postal Telegraph Cable Company, Washington, D. C.

[NOTE.—The lapse of time between the dates of Mr. Ribble's letter and the Post-Office Department's reply thereto was occasioned by the fact that Mr. Ribble was verbally apprised of the opinion of the Assistant Attorney-General for the Post-Office Department, hereafter quoted, and that no relief could be given so far as the Department was concerned. At a later date written reply was desired in order that the records in the telegraph company's office might be made complete.]

[Copy of opinion of the Assistant Attorney-General for the Post-Office Department, which formed the basis of the chief clerk's reply of June 26, 1899, to G. W. Ribble's letter of December 14, 1898.]

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL
FOR THE POST-OFFICE DEPARTMENT,
Washington, January 12, 1899.

SIR: I am in receipt, by reference from your office, of a communication of the 14th instant, from G. W. Ribble, acting manager Postal Telegraph-Cable Company, who submits to the Postmaster-General certain accounts for telegraph services rendered by said company during the administration of Postmaster-General Wanamaker. It appears from Mr. Ribble's statement that these accounts were sent in with the protest of the company against the rates then enforced, and the Department having declined to accept such accounts in that form, they were recalled and withdrawn. They are now again submitted with request that provision for payment of same be made in the next deficiency appropriation.

The matter is submitted to this Office with request that I advise you whether there is any authority of law to comply with the request of the Postal Telegraph-Cable Company.

These accounts arose over five years ago, and I know of no authority for their adjudication now. They have not been pending before the Department, inasmuch as, according to Mr. Ribble's statement, they were withdrawn when the Department declined to accept them with the protest attached. In the absence of additional authority of law the Postmaster-General can not, under existing statutes, certify for payment any account under any appropriation for the Post-Office Department unless the same accrued within the two fiscal years preceding the current year and there is an available balance for such years out of which such accounts can be paid.

Under the provisions of the act of June 14, 1878 (1 Supp. R. S., 180), it is provided that—

“It shall be the duty of the several accounting officers of the Treasury to receive, examine, and consider the justice and validity of all claims under appropriations the balances of which have been exhausted or carried into the surplus fund under the provisions of said section that may be brought before them within a period of five years.

“And the Secretary of the Treasury shall report the amount due each claimant to Congress for consideration.”

This is the only section authorizing the consideration and certification to Congress for payment of accounts for which there is no available balances of any appropriation which can under existing law be utilized for their payment. Without, however, considering the question as to whether this section applies to the case under consideration, even admitting that it does, the account of the Postal Telegraph-Cable Company is barred thereunder, as it arose over five years ago.

I do not see how you can comply with the request of the Postal Telegraph-Cable Company. It must seek its relief in Congress.

The letter submitted by you in the case is herewith returned.

Very respectfully,

HARRISON J. BARRETT,

Acting Assistant Attorney-General for the Post-Office Department.

CHIEF CLERK POST-OFFICE DEPARTMENT.

It will be noted in the preamble to the bill S. 1362 that during the period from July 1, 1889, to June 30, 1893, “the bills of the company were properly rendered with a protest against the rate fixed by the Postmaster-General attached.” The following is a copy of the protest which was attached to and filed with each bill as rendered to the Post-Office Department by the Postal Telegraph-Cable Company:

POSTAL TELEGRAPH-CABLE COMPANY,
EXECUTIVE OFFICE, No. 1, BROADWAY,
New York, ———, 189—.

To ———:

The Postal Telegraph-Cable Company protests against the receipt of the amount set forth in the annexed voucher as in full compensation for the services supposed to be embraced in the certificate of ———, hereto attached, and reserves the right to contest ——— upon all legal grounds the rates at which the amount is stated as below the actual cost of and totally inadequate compensation for the services rendered; and reserves the right to collect, by suit or otherwise, such further and additional compensation as it may justly be entitled to receive.

[SEAL.]

ATTEST:

J. O. STEVENS, *Secretary.*

W. H. ALLEN, *Manager.*

A. B. CHANDLER, *President.*

The bill S. 1362 was also referred by your committee to the Attorney-General for report. His reply, containing particulars regarding the case of the Western Union Telegraph Company *v.* The United States, in the Court of Claims, is quoted below:

DEPARTMENT OF JUSTICE,
Washington, D. C., January 21, 1904.

SIR: I am in receipt of your communication of the 5th instant, transmitting a copy of Senate bill 1362, for the relief of the Postal Telegraph Company, in which you ask for an expression of my views as to its merits.

The bill provides for an appropriation of \$2,155.19 for telegraphic service rendered

to the Post Office Department from July 1, 1889, to June 30, 1893, during which period it is claimed the bills of the company were properly rendered, with a protest against the rate fixed by the Postmaster-General, but were disallowed and returned. It is stated in the preamble of the bill that the rate fixed by the Postmaster-General was subsequently declared illegal by the Court of Claims and its protest filed with the bills sustained, and that pending such decision the claim of the Postal Telegraph Cable Company became barred by the statute of limitations. I have no means of information in the premises, outside of this recital in said bill, other than what may be inferred from the facts and proceedings in the case of the Western Union Telegraph Company *v.* The United States, decided by the Court of Claims on November 22, 1897.

On April 4, 1890, a petition was filed in the Court of Claims in behalf of said company and against the United States, being No. 16,741, in which the sum of \$9,463.11 was claimed as compensation for certain telegraphic service rendered to the Government.

This claim, as stated in said petition, arose out of the order of Postmaster-General Wanmaker, dated June 29, 1889, to the Western Union Telegraph Company, in which the rate for the fiscal year beginning July 1, 1889, was fixed at 1 mill a word, irrespective of distance, for all Government messages, day or night. The claimant averred and charged in its petition that the rate so fixed was neither fair nor reasonable, nor could the service be performed therefor except at a great loss; that on July 3, 1889, the Postmaster-General informed the claimant company that the order fixing telegraphic rates for the ensuing year would be suspended a reasonable time to afford that company, as well as others, an opportunity to be heard; that at the expiration of the fiscal year 1889 no Government rate, so called, existed; that on October 30, 1889, Postmaster-General Wanmaker issued a circular letter fixing a new rate for telegraphic services rendered the Government, which rate the petition avers was neither fair nor reasonable; that thereupon the Western Union Telegraph Company protested against performing the telegraphic service for the Government at the price fixed by the Postmaster-General, upon the ground that it was inadequate and unreasonable and that the enforcement of the same would amount to a confiscation of its property, but gave notice that on account of public interests and in order not to embarrass the operations of the Government it would receive and forward messages offered, but would demand a fair and reasonable compensation therefor.

Thereafter said petition was amended and judgment was asked for the sum of \$786,860.96.

On June 13, 1895, in pursuance of a stipulation filed and signed by the respective parties, the court referred the cause to auditors to state an account at the rates of tolls for telegraphic services fixed in the orders of J. Sterling Morton, Secretary of Agriculture, and William S. Bissell, Postmaster-General, respectively, for the fiscal year ending June 30, 1894.

On November 10, 1897, upon the return of the report of the referee, the following stipulation was filed in the case:

[In the Court of Claims. The Western Union Telegraph Company, claimant, *v.* The United States. No. 16741.]

Whereas about the 27th day of March, 1894, during the pendency of this suit, an agreement was made between the United States, through its Postmaster-General and the claimant, that the rates for telegraphing for the United States hereinafter referred to should be accepted by the claimant for services rendered for the ensuing year provided the same rates were allowed for the period embraced in this suit; and whereas the Hon. W. S. Bissell, Postmaster-General, on the 27th day of March, 1894, certified to the Attorney-General that said rates were reasonable and just, and, by agreement between the claimant and the United States, this cause was referred to have ascertained the amount that would become due at the rates set out in the orders of the honorable Postmaster-General, W. S. Bissell, and Hon. J. Sterling Morton; and whereas Perry S. Heath, esq., sole referee, filed herein, on the 1st day of September, 1897, his report certifying that there was due to the claimant under said order of reference the sum of two hundred and fifty-eight thousand eight hundred and sixty-nine dollars and eighty-four cents (\$258,869.84); and whereas the Hon. James A. Gary, Postmaster-General, has certified that said sum is reasonable and just and that the Post-Office Department does not question its correctness:

It is therefore stipulated and agreed that the report of said referee be confirmed and judgment in accordance therewith may be entered in favor of the claimant;

And it is further stipulated that such judgment shall not in any way estop or bar the United States in any subsequent suit, should any be brought with reference to any other telegraphic service, from contending or pleading that the action of the

Postmaster-General in fixing rates for telegraphic service rendered the United States was, or is, irreviewable by the judiciary, but such question shall be decided irrespective of anything in this stipulation, or in these proceedings contained.

LOUIS A. PRADT,
Assistant Attorney-General.

JOHN C. FAY,
Attorney for Claimant.

On November 22, 1897, the following order was entered by the Court of Claims in the case:

[In the Court of Claims. No. 16741. The Western Union Telegraph Company v. The United States.]

ORDER.

It appearing that this case was referred to Perry S. Heath, esq., on the 24th day of June, 1897, as referee, and the said referee having reported on the 1st day of September, 1897, as appears by his report duly filed, that there remains due and owing upon the matters alleged in the petition in this case from the defendants to the claimant sums amounting in the aggregate to two hundred and fifty-eight thousand eight hundred and sixty-nine dollars and eighty-four cents (\$258,869.84), and the parties by their respective attorneys having stipulated and agreed that the report of the said referee be confirmed and judgment entered in conformity therewith, and "that such judgment shall not in any way estop or bar the United States in any subsequent suit, should any be brought with reference to any other telegraphic service, from contending or pleading that the action of the Postmaster-General in fixing rates for telegraphic service rendered the United States was or is irreviewable by the judiciary, but such question shall be decided irrespective of anything in this stipulation or in these proceedings contained."

Now, therefore, it is hereby ordered, adjudged, and decreed that said report in all things be confirmed, and that the claimant, The Western Union Telegraph Company, do have and recover of and from the United States the sum of two hundred and fifty-eight thousand eight hundred and sixty-nine dollars and eighty-four cents (\$258,869.84).

As I am not aware of any stipulation whereby the claim of the Postal Telegraph Company was to abide the decision in this case of the Western Union Telegraph Company, I am not in a position to make any recommendation with reference to the removal of the bar of the statute of limitations proposed in the bill under consideration. It is possible that some agreement as to the claim may have been entered into between the Post-Office Department and the Postal Telegraph Company, but as to that and as to the merits of the claim the Postmaster-General may be able to advise you.

Very respectfully,

H. M. HOYT,
Acting Attorney-General.

HON. FRANCIS E. WARREN,
Chairman Committee on Claims, United States Senate, Washington, D. C.

